

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

KAMBIZ and HOMA MORADI, husband
and wife,

Plaintiffs,

v.

**RECONTRUST COMPANY, NA; BANK
OF AMERICA, NA; and THE BANK OF
NEW YORK MELLON FKA THE BANK
OF NEW YORK, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWMBS,
INC., CHL MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2007-15; and JOHN DOES 1-20,**

Defendants.

Case No. 3:19-cv-1590-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued a second Findings and Recommendations in this case on June 30, 2020. ECF 59. Judge Russo had previously recommended that the Court dismiss Kambiz and Homa Moradi's (collectively, "Plaintiffs")

original complaint with leave to file an amended complaint to cure the identified deficiencies. ECF 28. Plaintiffs filed an amended complaint in April 2020. ECF 43. ReconTrust Company, NA, Bank of America, NA, Bank of New York Mellon, and John Does (collectively, “Defendants”) moved to dismiss Plaintiffs’ amended complaint. ECF 49. In Judge Russo’s second Findings and Recommendations, she recommended dismissing with prejudice for failure to state a claim Plaintiffs’ amended complaint. ECF 59. No party filed objections. The Court has reviewed Plaintiffs’ amended complaint and Judge Russo’s Findings and Recommendations.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Russo's Findings and Recommendations. ECF 59. Defendants' Motion to Dismiss (ECF 49) is **GRANTED**. Plaintiffs' amended complaint (ECF 43) is **DISMISSED** with prejudice.

IT IS SO ORDERED.

DATED this 20th day of July, 2020.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge